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09/764,377	01/19/2001	Shuichi Sakamoto	500.39531X00	7664

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EXAMINER

LAMBRECHT, CHRISTOPHER M

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 11/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/764,377

Applicant(s)

SAKAMOTO ET AL.

Examiner

Christopher M. Lambrecht

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3,4 and 6-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,4 and 6-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claim 4 August 2005 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Objections*

2. Claims 4 and 7 are objected to because of the following informalities: at line 11 of claim 4, "terminals" should be changed to --servers--; and, at line 9 of claim 7, "terminal" should be changed to --server--. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. **Claims 1, 3, 4, and 6-13** are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,006,264 to Colby et al.

Regarding **claims 1, 4, 7, 9, 10, and 11**, Colby et al. disclose a video content transmitting system (fig. 1b) and corresponding method having a plurality of video content transmitting servers (100a-c & 120a,b) and being capable of transmitting requested video contents (col. 1, ll. 59-65) in response to a request from any of video content play terminals (end stations of fig. 1a, associated with clients/client applications operated by customers of ISPs, see col. 1, ll. 59-65 & col. 2, ll. 22-45) connected via a

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network (comprising network **100a**, col. **5**, ll. **33-36** and network formed of switch **110** and web servers **100a-c** & **120a,b**, said networks coupled by link **132**) to said plurality of video content transmitting servers, said video content transmitting system comprising:

means (content server database (CSD), fig. **2** of content-aware flow switch **110**, fig. **1b**) for storing information of a network protocol (*e.g.*, Internet Protocol (IP)) capable of video content transmission between the video content play terminal and the video content transmitting server (col. **6**, ll. **50-63** describe storing IP addresses, which constitute information of a network protocol, namely, IP), said network protocol information storing means including a table of protocols (server records database of CSD, col. **6**, ll. **42-63**) for facilitating communication (where a protocol is standard procedure two devices must accept in order to understand each other, a protocol inherently facilitates communication) for each combination of said video content transmitting server and said video content play terminal (server records database includes server protocol in each server record, col. **6**, ll. **56-63**; thus, communication for each combination of server and client/terminal is facilitated),

means (flow admission control (FAC), fig. **2**, content-aware flow switch **110**, fig. **1b**) for managing information of a total available bandwidth (PortBW) for video content transmission of a network route between each video content play terminal and each video content play terminal and each video content transmitting server (col. **15**, ll. **2-12**) and information of a bandwidth now in use (existing QoS tags) for the video content transmission (col. **15**, l. **49** - col. **16**, l. **4**);

bandwidth calculating means (FAC) for calculating a bandwidth of the network route to be used for transmission of requested video contents (QoS requirements of content request, col. **14**, ll. **8-16**); and

means (FAC) for selecting a video server content transmitting server from the plurality of video content transmitting servers (col. **6**, l. **64** - col. **7** & col. **8**, ll. **6-12**) based on a protocol determination of the protocols of the table in respect of the video content play terminal issuing the request to thereby determine the video content transmitting server capable of transmitting said requested video contents to

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the video content play terminal requesting said video content transmission, in accordance with the stored network protocol information (where video server selection is based upon whether or not candidate servers can support quality of server (QoS) requirements of content request, col.14, ll. 8-16, wherein said QoS requirements are calculated based upon, *inter alia*, the protocol with which the content is to be delivered, *i.e.*, TCP or non-TCP; and 2) client bandwidth; see col. 15, l. 2 - col. 16, l. 4., where said protocol is determined by the server, col. 1, ll. 59-65, and maintained at the CSD server records database, col. 6, ll. 58-63) and/or in accordance with the total available bandwidth, the bandwidth now in use and the calculated necessary bandwidth for video content transmission (col. 14, ll. 5-19).

Regarding **claims 3, 6, and 8**, Colby et al. disclose a system and corresponding method according to claims 1, 4, and 11 (see above), wherein:

aaid network includes at least a first network (100a, col. 5, ll. 33-36) and a second network (network formed of switch 110 and web servers 100a-c & 120a,b), in one transmission mode, the first network (100a) is used when a video content transmission request is transmitted to the video content transmitting system from the video content play terminal (*i.e.*, from end-station to switch 110, see figs. 1a and 1b) and the second network is used when the video contents are transmitted from the video content server to the video content play terminal in response to said video content transmission request (*i.e.*, requested content flows from selected server back to end station through switch 110); and

said video content transmitting system further comprises:

means for storing an address for identifying the video content play terminal (*i.e.*, forwarding table containing IP address of end-station, col. 1, ll. 22-26, necessary for network address routing performed by switch 110, col. 6, ll. 5-30) that issued the video content transmission request via the first network and an address for identifying the video content play terminal receiving the video contents via the second network (*i.e.*, network address of the end station); and

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means for determining a video content destination address to which the video contents are transmitted, in accordance with the stored addresses of the video content terminal on the first and second networks (col.16, ll. 5-16).

Regarding **claim 12**, Colby et al. disclose a video content transmitting method according to claim 11, wherein said table (CSD server records database) for storing information of a network protocol usable for video content transmission between the video content play terminal and the video content transmitting server can select (*i.e.*, is referenced in the process of selection) a network protocol in accordance with the request by the video content play terminal and a network infrastructure (*i.e.*, protocol is determined by the server selected to server the requested content, and said selection is in accordance with the request by the play terminal, *i.e.*, QoS requirements, and network infrastructure, *i.e.*, link bandwidth, col. 14, ll. 5-19).

Regarding **claim 13**, Colby et al. disclose the claimed limitations (see rejection of claim 7).

*Conclusion*

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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6. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.



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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher M. Lambrecht whose telephone number is (571) 272-7297. The examiner can normally be reached on 9:30 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher M Lambrecht  
Examiner  
Art Unit 2611

cml

  
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PRIMARY EXAMINER